REGULATION IV OF 1923.

(Received the assent of His Highness the Maharaja on the twenty-seventh day of April 1923.)

A Regulation further to amend the Mysore Municipal Regulation, 1906.

Whereas it is expedient further to amend the Mysore Municipal Regulation, 1906; His Highness the Maharaja is pleased to enact as follows :—

Amendment of Section 3.

1. In Section 3 of the Regulation, below clause (2), the following clause shall be inserted, namely :—

"(2A) 'Municipal Commissioner' shall mean a person appointed under the provisions of Section 186A and shall include a person appointed to act as Municipal Commissioner under Sub-Section (3) of Section 186D.

New Section 15 A.

2. After Section 15 of the Regulation the following section shall be inserted, namely :—

Resignation.

"Any Councillor may resign his office by giving notice in writing to that effect to the President and the President may resign his office by giving notice in writing to that effect to the Municipal Council in the case of City Municipalities and to the Deputy Commissioner in the case of other Municipalities, the resignation taking effect in the latter case on its acceptance by the Deputy Commissioner.

3. (1) In Sub-Section (6) of Section 23, for the last twenty-seven words commencing with the word "shall" the following words shall be substituted, namely :—

"shall be for a year unless the term of the Council expires sooner.

Provided that in the case of City Municipalities, his term of office shall continue for three years unless his term of office as Councillor expires sooner."

(2) To Section 23, the following new clause shall be added :—

"(7*a*) During the period intervening the expiry of the term of a President on the reconstitution of a Municipal Council and the election or nomination as the case may be, of another President, the Deputy Commissioner in the case of Municipalities at District headquarters or the Amildar in the case of other Municipalities shall, notwithstanding anything contained in this Regulation or in the rules or notifications issued thereunder, take the place of the President until such elected or nominated President enters on his duties."

New Section 23 A.

4. After Section 23 of the Regulation the following section shall be inserted, namely :—

Municipal Government to vest in the Municipal Council.

"23A. (1) Except as in this Regulation otherwise expressly provided, the Municipal Government of a Municipality vests in the Municipal Council.

(2) In a Municipality for which there is a Municipal Commissioner, the executive power for the purpose of carrying out the provisions of this Regulation vests in the Municipal Commissioner, subject, wherever it is in this Regulation expressly so directed, to the approval or sanction of the Municipal Council and subject also to all other restrictions, limitations and conditions imposed by this Regulation.

Amendment of Section 24.

5. In Section 24, Sub-Section (1) of the Regulation, the following proviso shall be added, namely :—

"Provided that in a Municipality for which there is a Municipal Commissioner, the duties and powers of the President under clauses (*b*), (*c*) and (*d*) of this sub-section shall, subject to the provision of this Regulation and save where it is otherwise expressly provided in this Regulation, be perfomed and exercised by such Municipal Commissioner.

New Section 24 A.

6. After Section 24, the following new section shall be added.

(24*a*). No official correspondence between a City Municipal Council and the Government shall be conducted except through the President. The President shall be bound to transmit communications addressed through him by the Commissioner to the Government or by the Government to the Commissioner.

New Sections 26A and 26B.

7. After Section 26 of the Regulation, the following sections shall be inserted, namely :—

Right of Municipal Commissioner to be present and to speak at municipal meetings.

"26 A (1) A Municipal Commissioner shall have the same right of being present at a meeting of the Municipal Council *or* the managing or other committee and of taking part in the discussions thereat as a Councillor and with the consent of a majority of the Councillors present, ascertained by a show of hands, without discussion, may at any time make a statement or explanation of facts, but he shall not be at liberty to vote upon, or to make, any proposition at such meeting.

(2) "The Municipal Commissioner shall attend any meeting of the Municipal Council or of the Managing or other Committee if required to do so by the President."

"26B. (1) Any Councillor may call the attention of the proper authority to any neglect in the execution of municipal work, to any waste of municipal property or the wants of any locality, and may suggest any improvements which he considers desirable.

(2) Every Councillor shall have the right to interpellate the President on matters connected with the Municipal Administration subject to such regulations as may be framed by the Council.

(3) Every Councillor shall have access to the records of the Municipal Council after giving due notice to the President or the Municipal Commissioner as the case may be, provided that the President or the Commissioner may for reasons given in writing forbid such access. The Councillor may in the case of City Municipal Councils appeal against such order of the Commissioner to the President whose decision shall be final."

Amendment of Section 27.

8. In Section 27, Sub-Section (2), clause (ii) of the Regulation, after the words "Chapter XIII" the words "and Chapter *XIII A*" shall be inserted.

Addition of proviso to Section 34.

9. After Sub-Section (1) of Section 34 of the Regulation, the following proviso shall be inserted, namely :—

"Provided that notwithstanding anything to the contrary contained in Sub-Section (9) of Section 26, Committees may record their Proceedings either in English or in Kanarese as they may think fit.".

Amendment of Section 37.

10. To Section 37 of the Regulation, the following proviso shall be added, namely :—

"Provided that in a Municipality for which there is a Municipal Commissioner, the powers or duties or executive function under this Regulation or under any rule or bye-law made hereunder, conferred or imposed upon or vested in the Municipal Commissioner, shall not be delegated save as provided in Section 186M."

Amendment of Section 40.

11. Below Sub-Section (7) of Section 40 of the Regulation the following sub-section shall be added, namely :—

"8. The provisions of this section shall be subject to the provisions of Chapter *XIII A*."

Amendment of Section 46.

12. In Section 46 of the Regulation,

(1) after the words "the constitution thereof," the words "and subject to the provisions of Chapter *XIII A*," shall be inserted;

(2) in sub-clause (*i*) of clause (*b*) after the words "Chief Officer," the words "and subject to the provisions of Chapter *XIII* A, by the Municipal Commissioner," shall be inserted.

Amendment of Section 63.

13. (1) In Section 63, Sub-Section (2) of the Regulation, the following proviso shall be added, namely :—

"Provided that in a Municipality for which there is a Municipal Commissioner, such Municipal Commissioner may make such inspection."

(2) In Section 63, Sub-Section (3), of the Regulation, after the word "person", the words "or of the Municipal Commissioner as the case may be", shall be inserted.

Amendment of Section 65.

14. (1) In Section 65, Sub-Section (3) of the Regulation, at the commencement, the following words shall be inserted; namely:

"In a Municipality for which there is a Municipal Commissioner such Municipal Commissioner, and elsewhere."

(2) In Section 65, Sub-Section (4) of the Regulation, after the word "authenticated" the following words shall be inserted; namely :—

"In a Municipality for which there is a Municipal Commissioner by the signature of the Municipal Commissioner, and elsewhere."

Amendment of Section 83.

15. In clause (*b*) of sub-section (1) of Section 83, of the Regulation, the words "or of the Municipal Commissioner" shall be inserted before the words "if any" and in Sub-Section (2) after the words "Chief Officer" the words "or by the Municipal Commissioner," shall be inserted.

Amendment of Section 142 (1).

16. In the paragraph following clause (*b*) of Sub-Section (1) of Section 142 of the Regulation, after the word "Sub-Chapter" the words "or of the Municipal Commissioner, if any," shall be inserted.

Amendment of Section 177.

17. In Section 177, Sub-Section (2), clause (iii) of the Regulation, (*a*) after the word "Officer" the words "or a Municipal Commissioner" shall be inserted; and (*b*) the words "or by by Chapter XIIIA, as the case may be" shall be added at the end.

Insertion of new Chapter.

18. After Chapter *XIII* of the Regulation, the following new chapter shall be added :—

CHAPTER XIII A.

THE MUNICIPAL COMMISSIONER, HIS POWERS AND DUTIES.

Appointment of Municipal Commissioner.

186A. (1) Notwithstanding anything contained in Chapter XIII, the Government may appoint a Municipal Commissioner for any City Municipality.

(2) On the appointment of a Municipal Commissioner the appointment of Chief Officer whether made under Section 177 or Section 182, shall forthwith terminate, provided that the appointment of a Municipal Commissioner shall not be made until such notice has been given to the Chief Officer, if any, as the term of his appointment entitles him to receive and until the expiry of the period specified in such notice.

(3) The Government may, at any time discontinue the appointment of a Municipal Commissioner for any Municipality for which such appointment has been made.

Removal from office.

186B. (1) A Municipal Commissioner shall hold office for a period of three years, in the first instance, and thereafter for such further period not exceeding three years at a time as the Government may in each determine.

(2) A Municipal Commissioner may be removed from office at the any time by the Government if it shall appear to the Government that he is incapable of performing the duties of his office or has been guilty of any misconduct or neglect which renders his removal expedient.

(3) The Government shall remove the Commissioner from office, if at a special meeting of the Municipal Council called for the purpose, not less than two-thirds of the whole number of Councillors vote for such removal.

Salary of Municipal Commissioner.

186*c*. (1) A Municipal Commissioner shall receive such monthly salary payable wholly by the Municipal Council or partly by the Municipal Council and partly by Government, as the Government may from time to time determine with due regard to the resources of the Municipality.

Prohibition of engagement in other business.

(2) A Municipal Commissioner shall devote his whole time and attention to the duties of his office as prescribed in this Regulation or in any other enactment for the time being in force, and shall not engage in any other profession, trade or business whatever.

Provided that the Government may assign to him any other work of local importance or interest, if in their opinion he can perform such additional work without prejudice to his duties as Municipal Commissioner.

Leave of absence.

186*d*. (1) The Government may, from time to time, in consultation with the Municipal Council, grant leave of absence for such period as it thinks fit to a Municipal Commissioner.

Leave allowance.

(2) The allowance to be paid to a Municipal Commissioner while absent on leave, shall be of such amount, not exceeding his salary, as shall be fixed by the Government.

Provided that, if the Municipal Commissioner is a salaried servant of Government, the amount of such allowance shall be regulated by the rules for the time being in force relating to the leave allowances of salaried servants of Government of his class.

Appointment of substitute.

(3) During any absence on leave, or other temporary vacancy in the office of a Municipal Commissioner, the Government may appoint a fit person to act as Municipal Commissioner. Every person so appointed shall exercise the powers and perform the duties conferred and imposed by or under this Regulation or by any other enactment for the time being in force on the person for whom he is appointed to act, and shall be subject to the same liabilities, restrictions and conditions to which the said person is liable.

Contributions from Municipal Council towards pensions and leave allowances of Municipal Commissioners.

186*e*. (1) When a salaried servant of Government is appointed to be a Municipal Commissioner, the Municipal Council shall, unless specifically exempted wholly or in part from liability by the Government, contribute to his pension and leave allowances to the extent required by proviso (*b*) to Section 46.

(2) When a person other than a salaried servant of Government is appointed to be a Municipal Commissioner, the Municipal Council shall pay from Municipal Fund the whole of his leave allowances fixed, as hereinbefore provided, by the Government, and may, with the sanction of Government, grant him a pension or gratuity on retirement, or grant a compassionate allowance to his family on his death.

Power of Municipal Council to require returns, reports or production of documents.

186*f*. (1) The Municipal Council may require the Municipal Commissioner to furnish them with.—

(*a*) any return, statement, estimate, statistics, or other information regarding any matter appertaining to the administration of this Regulation or to the Municipal Government of the Municipality;

(*b*) a report on any such matter;

(*c*) a copy of any document in his charge.

Provided that in emergent cases which do not admit of delay till a meeting of the Municipal Council is called, the President may call for information, return, statistics estimates, etc., referred to above.

(2) The Municipal Commissioner shall comply with every such requisition without unreasonable delay.

Powers of Municipal Commissioners and limitations thereon.

186*g*. A Municipal Commissioner shall exercise the powers hereinafter specified, and such other executive powers as may be delegated to him by the Municipal Council under the provisions of this Regulation:—

(1) he shall exercise all the powers specifically conferred on the Chief Officer in a City Municipality by the provisions of of this Regulation; and

(2) he may make such requisition by written notice, give such written consent or permission, issue such orders and prohibitions, exercise all such powers and perform all such duties as may be made, given, issued, exercised and performed by a Municipal Council under any of the provisions contained in the following Sections or Sub-Sections, namely :—

63, 64, 65, 66, 67, 69, 71, 76, 78, 79 Sub-Sections (3), (4) and (5), 80, 82, 83, 84, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 103, 105, 106, 107, 108, 109, 110 Sub-Section (2), 112 Sub-Section (1), 113, 116, 120, 135, 136, 139 Sub-Section (4), 144, 145, 147, 148, 151, 152, 154, 155, 156, 157, 159 and 161.

Provided as follows :—

(*a*) The powers conferred on the Municipal Council by or under the provisions contained in Section 71, Section 90, Section 91, Section 93, Sub-Section (1) of Section 106, Section 113, Sub-Section (1) of Section 116, and, in the case of a well, Section 135, shall not be exercised by the Municipal Commissioner except subject to the general or special orders of the Municipal Council or, in the absence of such orders, with the previous approval of the Municipal Council ;

(*b*) The powers conferred on the Municipal Council by or under any of the provisions of this Regulation (i) to make rules or bye-laws, and (ii) to authorise the President or the Vice-President, or a Committee or a Councillor to do anything, shall not be exercised by the Municipal Commissioner ;

(*c*) Property, whether movable or immovable, vested in or belonging to or otherwise held by the Municipal Council, shall not be deemed to vest in or belong to or otherwise to be held by the Municipal Commissioner ;

(*d*) The power conferred by Section 161 to direct a prosecution or to order proceedings to be taken for the punishment of any person offending against the provisions of the following sections or sub-sections shall not be exercised by the Municipal Commissioner except with the previous approval of the Municipal Council :—

Section 44, Section 45, Sub-Section (4) of Section 91, Section 138, and Sub-Section (4) of Section 149.

Municipal Commissioner deemed to be authorised in certain matters although not expressly so authorised.

186 H. When a Municipal Council empowered by any of the provisions of this Regulation or by any bye-laws made hereunder to authorise an officer to exercise any power whatever or to do anything, have so authorised any officer, they shall be deemed so to have authorised the Municipal Commissioner notwithstanding that they have not expressly so authorised him.

Punishment for person disobeying lawful direction given by Municipal Commissioner.

186. I. Whoever disobeys or fails to comply with a lawful direction given by the Municipal Commissioner in any matter shall be punishable in the same manner as a person who disobeys or fails to comply with a lawful direction given by the Municipal Council in the same matter.

Powers of Municipal Commissioner to appoint, grant leave, punish and dismiss.

186 J. (1) A Municipal Commissioner shall have, independently of such powers as may be delegated to him by the Municipal Council in this behalf, power without the sanction of the Municipal Council.—

(*a*) to appoint, subject to the general rules of recruitment that the Government may make from time to time and subject to the rules for the time being in force under sub-clause (ii) of clause (*b*) of Section 46, a fit person to any post under the Municipal Council, the monthly salary for which does not exceed rupees one hundred; other than to the post of Health Officer, Engineer, Chief Accountant, Manager or Auditor ;

(*b*) to grant, subject to the rules for the time being in force under clause (*f*) of Section 46, leave of absence to the holder of any post to which the Municipal Commissioner has power to appoint, and to appoint a fit person to act for such holder during such absence ;

(c) to fine, reduce, suspend or dismiss the holder of any post to which the Municipal Commissioner has power to appoint:

Provided that no holder of a post the monthly salary for which exceeds rupees fifty shall be dismissed by the Municipal Commissioner without the approval of the Municipal Council.

(2) When a Municipal Commissioner has been appointed under the provisions of this Regulation, all other officers and servants employed by the Municipal Council shall be subordinate to him.

Municipal Commissioner not to exercise powers of Municipal Council over masters and teachers.

186 K. Notwithstanding anything contained in Section 24, in Section 184, and in Section 186 J. the powers conferred on the Municipal Council or on a Committee appointed under Section 28, by or under any of the provisions of this Regulation to appoint, grant leave of absence to, punish or dismiss any master, teacher or other person employed in a primary or other school vested in or maintained by the Municipal Council or employed in any educational institutions aided by the Municipal Council shall not be exercised by the Municipal Commissioner.

Orders not subject to appeal except in certain cases.

186 L. No appeal shall lie to the Municipal Council in respect of any order passed or anything done by a Municipal Commissioner in the exercise of the powers conferred upon him by or under the provisions of this Regulation except in the case of an order passed or anything done by him under any of the following sub-sections, namely:—

(i) Sub-Section (3) of Section 65, (ii) Sub-Sections (1) and (2) of Section 92, (iii) Sub-Section (1) of Section 98, (iv) Sub-Section (1) of Section 103, (v) Sub-Section (2) of Section 131, (vi) Sub-Section (1) of Section 151, (vii) clause (*b*) of Sub-Section (1) of Section 156 and (*viii*) Sub-Section (*c*) of Section 186 J, in respect of an order of dismissal.

Delegation of powers of Municipal Commissioner.

186 M. (1) With the sanction of the Municipal Council, the Municipal Commissioner may, by general or special order in writing, delegate to any Municipal officer or servant any of the Municipal Commissioner's powers, duties or functions under this Regulation or under any rule or bye-law made hereunder except such as are conferred or imposed upon or vested in him under the following sections, namely, 151, 161 and 186 J.

(2) The exercise or discharge by any Municipal officer or servant of any powers, duties or functions delegated to him under Sub-Section (1) shall be subject to such conditions and limitations, if any, as may be prescribed in the said order and also to the control and revision by the Municipal Commissioner.

Power to execute contracts on behalf of Municipal Council.

186 N. In any Municipal Council for which a Municipal Commissioner has been appointed, notwithstanding anything contained in Section 40, the following provisions with respect to the making of contracts under or for any purpose of this Regulation shall have effect, namely:—

(*a*) every such contract shall be made on behalf of the Municipal Council, by the Municipal Commissioner;

(*b*) no such contract for any purpose which the Municipal Commissioner is not empowered by this Regulation to carry out without the approval or sanction of some other Municipal authority, shall be made by him until or unless such approval or sanction has first of all been duly given;

(*c*) no contract for the purchase, sale, lease, mortgage or other transfer of immovable property, shall be entered into by the Municipal Commissioner except with the approval or sanction of the Municipal Council;

(*d*) no contract which will involve an expenditure exceeding five hundred rupees shall be made by the Municipal Commissioner except with the approval or sanction of the Municipal Council;

(e) every contract made by the Municipal Commissioner involving an expenditure exceeding two hundred and fifty rupees and not exceeding five hundred rupees shall be reported by him within fifteen days after the same has been made, to the Municipal Council;

(f) the foregoing provisions of this section shall apply to every variation or discharge of a contract as to an original contract.

Mode of executing contracts.

186O. (1) Notwithstanding anything contained in sub-sections (6) and (7) of Section 40, every contract entered into by a Municipal Commissioner on behalf of a Municipal Council shall be entered into in such manner and form as would bind such Municipal Commissioner if such contract were on his own behalf, and may in like manner and form be varied or discharged:

Provided that—

(a) Where any such contract, if entered into by a Municipal Commissioner, would require to be under seal, the same shall be sealed with the common seal of the Municipal Council.

(b) Every contract for the execution of any work or the supply of any materials or goods which will involve an expenditure exceeding five hundred rupees shall be in writing and shall be sealed with the common seal of the Municipal Council and shall specify the work to be done or the materials or goods to be supplied as the case may be, the price to be paid for such work, materials or goods and, in the case of a contract for work, the time or times within which the same or specified portions thereof shall be completed.

(2) The common seal of the Municipal Council shall not be affixed to any contract, or other instrument, except in the presence of two members of the Managing Committee, who shall attach their signatures to the contract or instrument in token that the same was sealed in their presence. The signatures of the said members shall be distinct from the signatures of any witnesses to the execution of any such contract or instrument.

(3) No contract not executed in the manner provided in this section shall be binding on the Municipal Council.

Tenders to be invited for contracts involving expenditure exceeding Rs. 500

186P. (1) Except as is otherwise provided in sub-section (3), a Municipal Commissioner shall, at least seven days before entering into any contract for the execution of any work or the supply of any materials or goods which will involve an expenditure exceeding five hundred rupees, give notice by advertising in the local newspapers, inviting tenders for such contract.

(2) A Municipal Commissioner shall not be bound to accept any tender which may be made in pursuance of such notice, but may accept, subject to the provisions of clause (d) of Section 186N, any of the tenders so made which appears to him, upon a view of all the circumstances, to be the most advantageous or may reject all the tenders submitted to him.

(3) The Municipal Council may authorise the Municipal Commissioner, for reasons which shall be recorded in their proceedings, to enter into a contract without inviting tenders as herein provided or without accepting any tender which he may receive after having invited them.

Security when to be taken for performance of contract.

186Q. A Municipal Commissioner shall require security for the due performance of every contract into which he enters under the last preceding section, and may, in his discretion, require security for the due performance of any other contract into which he enters under the Regulation.

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